



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,657	12/16/2004	Nicholas John White	2733.16US01	6802

24113 7590 09/19/2006

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER

HOLZEN, STEPHEN A

ART UNIT PAPER NUMBER

3644

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/518,657	Applicant(s) WHITE ET AL.	
	Examiner Stephen A. Holzen	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-55 is/are pending in the application.
- 4a) Of the above claim(s) 42 and 46-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25,27,30,31-35 and 45 is/are rejected.
- 7) ☒ Claim(s) 26,28,29,36-41,43 and 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/16/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 42, 45-49, and 50-55 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/3/2006.
2. Applicant's election with traverse of Group I is acknowledged. The traversal is on the ground(s) that the apparatus cannot be used in a materially different process. The examiner disagrees. The method claims, "closing the first door while the landing gear is still deployed". The apparatus claims "a first door that is free to move between its open and close position". The apparatus claim does not require that the first door be closed while the landing gear is still deployed. Therefore the apparatus can be used in a method that keeps "the first door open while the landing gear is still deployed". The examiner asserts that the steps "keeping open" and "closing" are mutually exclusive steps and therefore the difference between them is material.

Applicant then goes on to pose a hypothetical situation. The examiner appreciates applicant's assertions, however does agree with applicant's conclusion. The examiner asserts that a restriction is always appropriate so long as the requirements follow the rules set forth in the MPEP.

The applicant traversed the examiner's election of species requirement. Applicant's arguments are persuasive, and the examiner withdraws this election of species requirement. From an initial review of the application the examiner believed that applicant had disclosed both the use of two doors only and the use of more than two doors. After considering applicant's arguments and reviewing the application as filed, the examiner has concluded that applicant

Art Unit: 3644

never discloses the use of only two doors. Instead applicant has only disclosed the use of more than two doors.

The examiner is unclear why applicant withdrew claim 45. As far as the examiner can tell, this claim is not drawn to a non-elected embodiment therefore claim 45 has been included in the elected claims.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 25-55 are pending
4. Claims 42, 46-55 are withdrawn.
5. Claims 25-41 and 43, 44, 45 have been treated on their merits.

Claim Objections

6. Claims 25-41 and 43-45 are objected to because of the following informalities:
 - a. Re – Claims 25 and 43: the phrase “in use” is objected too. Applicant is not only limited to the claim invention when the doors are “in use”. Applicant is limited to the structure of the landing gear door assembly when it is --in use-- and when it is --not in use--. The examiner does not understand how the phrase “in use” affects the scope of the claims and therefor concludes the metes and bounds of the claim cannot be determined.
 - b. Re – Claim 32: the phrases “said arm” and “the arm” are objected to because the applicant should have referred back to “said at least one arm” and “the at least one arm”.
 - c. Re – Claim 45: Initially applicant has not referred back to “the landing gear” and instead opened with “a landing gear door assembly according to claim 25” (this is not

Art Unit: 3644

objected to). Instead the examiner objects to the second reference “the landing gear door assembly”. To which landing gear assembly is applicant referring? The one advanced in claim 25 or the second one introduced in claim 45?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 25, 27, 30, 31-35 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by W. M. Riggles Jr. (2,406,710).

Re – Claim 25: Riggles discloses an aircraft landing gear door assembly (see Figure 1) comprising a plurality of doors (two doors #6 and door #16) movable between open and closed positions (see Figures 2-4) wherein the first and second doors are arranged that they are, in use, configurable in such a way that movement of one of a first and second door for at least a part of the way between the open and closed positions causes movement of the other of the first and second doors, and the first and second doors (door #6 and door #3) are arranged such that when the landing gear is deployed, the second door (#3) is obstructed from moving between its open and closed positioned while the first door is free to move between its open and closed positions (see Col. 1, lines 40-43).

The applicant should appreciate that although Riggles does not disclose the specific “cause and effect” relationship between doors 3 and 6, applicant’s functional language in the claims does not serve to impart patentability. While features of an apparatus may be recited either structurally or functional, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. Apparatus claims cover what a device is, not what a device does. A claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior apparatus teaches all the structural limitation of the claims. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-.2 (Fed. Cir. 1997); Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990); Ex parte Masham, 2 USPQ 2d 1647 (Bd. Pat. App. & Inter. 1987).

Re – Claim 27: wherein one of the first and second doors is mounted for rotational movement about a fixed axis (see Figure 1).

Re – Claim 30: in which the first and second doors are arranged so that they may be coupled together to move as a single unit between their open and closed positions, and be decoupled to enable the first door also to move independently of the second door between its open and closed positions. (see Figure 1). It is the examiner’s position that doors are arranged such that the door moving mechanism may be operated upon the actuation of the landing gear (see Col. 2, lines 11-20) and thus the door (driven by the door moving mechanism) are coupled indirectly together to move as a single unit (i.e. the doors are indirectly coupled through non-illustrated door moving mechanism that is disclosed as being used to actuate the doors).

Art Unit: 3644

Furthermore the first door has the ability to move independently of the second door (see Col. 1, lines 41-43).

Re – Claims 31 and 32: in which when the doors are in their open positions, the second door is disposed below the first door. (The claims do not require that the doors be in the fully extended/deployed position. Therefor the doors have semi-open positions. When the second door #3 is in its fully extended/deployed position, it is below door #6 when door #6 is in a partially/barely open position). The second door #3 is mounted on an arm, which is itself mounted for movement to allow the second door to move between an open and closed position. (See Figure 1)

Re – Claim 33: in which the plurality of doors further comprises a third door moveable between closed and open positions, the first and third doors defining a pair of doors on opposite sides of the aperture through which the landing gear is deployed.

Re – Claim 34: in which the third door is mounted for rotational movement about a fixed axis. (See Figure 1)

Re – Claim 35: in which the third door is arranged such that when the landing gear is deployed it is free to move between its open and closed positions. (See Figure 1). A claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior apparatus teaches all the structural limitation of the claims.

Re – claim 45: An aircraft including a landing gear door assembly according to claim 25 and a landing gear with which the landing gear door assembly is associated. (see Figure 1).

Allowable Subject Matter

9. Claims 26, 28, 29, 36-41 and 43-44 would be allowable if rewritten to overcome the objections(s) set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Re – Claim 26: The prior art does not disclose two doors that are capable of movement without relative movement between them.

Re – Claim 28: The prior art does not disclose first and second fixed axis that are coincident.

Re – Claim 29: The prior art does not disclose one door connection point between disposed between two of the connection points of the other door.

Re – Claim 36-41 and 43-44: The prior art does not disclose a fourth door as presently claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903.

The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sah

Stephen Holzer
9/14/06